



February 22, 2008

ENGROSSED HOUSE BILL No. 1062

DIGEST OF HB 1062 (Updated February 19, 2008 1:14 pm - DI 106)

Citations Affected: IC 24-4; IC 25-37.5; IC 36-2; IC 36-8; noncode.

Synopsis: Architectural salvage material and valuable metal dealers. Prohibits an architectural salvage material dealer (dealer) from purchasing or otherwise obtaining architectural salvage material: (1) from a person who is less than 18 years of age; or (2) that the dealer believes or should have reason to believe is stolen property acquired as a result of a crime. Requires a dealer to keep a record book that contains certain information concerning architectural salvage material received by the dealer. Requires a dealer to hold the material for at least five business days if the dealer receives written notice from a law enforcement agency to hold the material. Allows law enforcement officers to inspect and obtain records from a dealer. Makes it a Class A infraction for a person to violate a provision of the architectural salvage material dealers law. Provides that the valuable metal dealers law applies to all ferrous metals and nonferrous metals. Specifies that a sheriff or deputy authorized by the sheriff in writing may supervise and inspect pawnbrokers, vendors, and certain other merchants who may sell secondhand material, and requires the legislative council to assign to the sentencing policy study committee the topic of the theft of salvaged material.

Effective: Upon passage; July 1, 2008.

Day, Elrod, Brown C

(SENATE SPONSORS — STEELE, TALLIAN, WALTZ)

January 8, 2008, read first time and referred to Committee on Courts and Criminal Code.

January 17, 2008, amended, reported — Do Pass.

January 24, 2008, read second time, ordered engrossed.

January 25, 2008, engrossed.

January 29, 2008, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 21, 2008, amended, reported favorably — Do Pass.

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February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1062

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-4-16 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:

4 **Chapter 16. Architectural Salvage Material Dealers**

5 **Sec. 1. This chapter does not apply to the purchase of valuable**
6 **metal (as defined in IC 25-37.5-1-1(a)) by a valuable metal dealer**
7 **regulated under IC 25-37.5.**

8 **Sec. 2. (a) As used in this chapter, "architectural salvage**
9 **material" means an item originally installed on or in a dwelling, a**
10 **business, or any other structure and subsequently removed from**
11 **the dwelling, business, or other structure.**

12 **(b) The term includes the following:**

- 13 **(1) Aluminum, wood, or vinyl siding.**
14 **(2) Balustrades or other stair parts.**
15 **(3) Bathroom or kitchen cabinets or fixtures.**
16 **(4) Doors, door architraves, or doorknobs.**
17 **(5) Light fixtures.**

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(6) Mantelpieces.

(7) Plumbing.

(8) Shutters.

(9) Windows and window architraves, including stained glass or leaded glass window panes.

(10) Wood trim.

Sec. 3. As used in this chapter, "dealer" means a person who purchases or otherwise acquires architectural salvage material for resale or reuse as part of the normal course of the person's business.

Sec. 4. Before a person may sell or otherwise transfer ownership of architectural salvage material to a dealer, the person must present government issued identification to the dealer to verify the identity of the person.

Sec. 5. A dealer may not purchase or otherwise obtain architectural salvage material:

(1) from a person who is less than eighteen (18) years of age; or

(2) that the dealer believes or should have reason to believe is stolen property acquired as a result of a crime.

Sec. 6. (a) A dealer shall keep a record book that contains the following information concerning architectural salvage material received by the dealer:

(1) An accurate description of any architectural salvage material received by the dealer. If multiple articles of a similar nature that do not contain an identification or serial number are delivered together in one (1) transaction to the dealer, the description of the articles is adequate if the description contains:

(A) the quantity of the articles delivered; and

(B) a physical description of the type of articles delivered, including any unique identifying marks, numbers, names, letters, or special features.

(2) The date and time of the transaction.

(3) The:

(A) name, address, date of birth, and telephone number; and

(B) signature;

of the person who sold or otherwise transferred ownership of the architectural salvage material to the dealer.

(4) The:

(A) type of government issued identification used to verify

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the identity of the person who sold or otherwise transferred ownership of the architectural salvage material to the dealer as described in section 4 of this chapter;

(B) name of the governmental agency that issued the identification; and

(C) identification number printed on the government issued identification.

(b) The record book described in subsection (a) must be open to inspection by a law enforcement officer at all reasonable times.

(c) A dealer shall retain a record book described in subsection (a) for at least two (2) years after the date of the most recent transaction recorded in the book.

Sec. 7. If a dealer receives a notice from a law enforcement agency to hold architectural salvage material possessed by the dealer, the dealer shall hold the architectural salvage material for at least five (5) business days after the date the dealer receives the notice.

Sec. 8. (a) Records and information generated by a dealer concerning architectural salvage material are confidential under IC 5-14-3-4.

(b) A law enforcement officer may obtain or receive records and information described in subsection (a) for use in the official law enforcement purpose of investigating crime.

(c) A law enforcement officer may disclose the name and address of a dealer to an adverse claimant in the case of a dispute over ownership of architectural salvage material in possession of the dealer.

Sec. 9. A person who violates this chapter commits a Class A infraction.

SECTION 2. IC 25-37.5-1-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3.** As used in this chapter, "ferrous metal" means any metal containing a significant quantity of iron or steel.

SECTION 3. IC 25-37.5-1-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.6.** (a) As used in this chapter, "nonferrous metal" means any metal that does not contain a significant quantity of iron or steel.

(b) The term includes the following:

(1) Aluminum.

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(2) Brass.

(3) Bronze.

(4) Copper.

(5) Lead.

(6) Nickel.

(7) Zinc.

(8) An alloy of a metal listed in subdivisions (1) through (7).

SECTION 4. IC 25-37.5-1-1, AS AMENDED BY P.L.2-2007, SECTION 349, AND AS AMENDED BY P.L.170-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of ~~copper, copper alloy, brass, aluminum, or aluminum alloy~~ **ferrous metal or nonferrous metal** that is readily used or useable:

(1) by a public utility, a railroad, a county, city, or state highway department, a public or private school, or ~~an~~ a postsecondary educational institution; ~~of higher education; or~~

(2) on residential or commercial property.

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks.

(c) As used in this chapter, "purchase" means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of one hundred dollars (\$100) or more for a consideration, but does not include purchases between scrap metal processing facilities (as defined in ~~IC 8-12-1-3(d))~~ **IC 8-23-1-36**).

SECTION 5. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The sheriff shall:

(1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to the sheriff by legal authority;

(5) serve all process directed to the sheriff from a court or the county executive;

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(6) attend and preserve order in all courts of the county;
 (7) take care of the county jail and the prisoners there;
 (8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and
 (9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

(c) The sheriff may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions. The sheriff may authorize any deputy in writing to exercise the same powers.

SECTION 6. IC 36-8-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The police department shall, within the city:

- (1) preserve peace;
- (2) prevent offenses;
- (3) detect and arrest criminals;
- (4) suppress riots, mobs, and insurrections;
- (5) disperse unlawful and dangerous assemblages and assemblages that obstruct the free passage of public streets, sidewalks, parks, and places;
- (6) protect the rights of persons and property;
- (7) guard the public health;
- (8) preserve order at elections and public meetings;
- (9) direct the movement of vehicles in public ways or public places;
- (10) remove all nuisances in public parks or public ways;
- (11) provide proper police assistance at fires;
- (12) assist, advise, and protect strangers and travelers in public ways or at transportation facilities;
- (13) carefully observe and inspect all places of business under license, or required to have them; and

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1 (14) enforce and prevent the violation of all laws in force in the
2 city.

3 (b) The police chief and each captain, in ~~his~~ **the captain's** precinct
4 **or district**, may supervise and inspect all pawnbrokers, vendors,
5 junkshop keepers, cartmen, expressmen, dealers in secondhand
6 merchandise, intelligence offices, **architectural salvage material**
7 **dealers (as defined in IC 24-4-16-3)**, and auctions. Any member of
8 the department may be authorized by the chief in writing to exercise the
9 same powers.

10 SECTION 7. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
11 **SECTION, "sentencing policy study committee" refers to the**
12 **committee established by P.L.216-2007, SECTION 56.**

13 (b) **The legislative council shall assign to the sentencing policy**
14 **study committee for study the topic of the theft of salvaged**
15 **material, including valuable metals and architectural salvage**
16 **material. The legislative council shall instruct the sentencing policy**
17 **study committee to specifically examine the effectiveness of**
18 **enforcement mechanisms in combating the theft of valuable metals,**
19 **architectural salvage materials, and other salvaged materials. The**
20 **sentencing policy study committee may examine any other issue**
21 **related the theft of salvaged material.**

22 (c) This SECTION expires November 1, 2008.

23 SECTION 8. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1062, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 36, after "number;" insert "**and**".

Page 2, line 37, delete "and".

Page 2, delete line 38.

Page 2, line 40, delete "If the".

Page 2, delete lines 41 through 42.

Page 3, delete lines 1 through 3.

Page 3, delete lines 19 through 39, begin a new paragraph and insert:

"Sec. 7. If a dealer receives a notice from a law enforcement agency to hold architectural salvage material possessed by the dealer, the dealer shall hold the architectural salvage material for at least five (5) business days after the date the dealer receives the notice."

Page 4, line 8, delete "knowingly or intentionally".

Page 4, line 9, delete "misdemeanor." and insert "**infraction**."

SECTION 2. IC 25-37.5-1-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3. As used in this chapter, "ferrous metal" means any metal containing a significant quantity of iron or steel.**

SECTION 3. IC 25-37.5-1-0.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.6. (a) As used in this chapter, "nonferrous metal" means any metal that does not contain a significant quantity of iron or steel.**

(b) The term includes the following:

(1) Aluminum.

(2) Brass.

(3) Bronze.

(4) Copper.

(5) Lead.

(6) Nickel.

(7) Zinc.

(8) An alloy of a metal listed in subdivisions (1) through (7).

SECTION 4. IC 25-37.5-1-1, AS AMENDED BY P.L.2-2007, SECTION 349, AND AS AMENDED BY P.L.170-2007, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of ~~copper, copper alloy, brass, aluminum, or aluminum alloy~~ **ferrous metal or nonferrous metal** that is readily used or useable:

(1) by a public utility, ~~a~~ railroad, ~~a~~ county, city, or state highway department, ~~a~~ public or private school, or ~~an~~ *a postsecondary educational institution; of higher education; or*

(2) *on residential or commercial property.*

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk carts or trucks.

(c) As used in this chapter, "purchase" means acquiring a valuable metal product or products by a valuable metal dealer in a single transaction of one hundred dollars (\$100) or more for a consideration, but does not include purchases between scrap metal processing facilities (as defined in ~~IC 8-12-1-3(d)~~). **IC 8-23-1-36**).".

Page 4, delete lines 39 through 40, begin a new paragraph and insert:

"SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1062 as introduced.)

HOY, Chair

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1062, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 5. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) The sheriff shall:

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(1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to the sheriff by legal authority;

(5) serve all process directed to the sheriff from a court or the county executive;

(6) attend and preserve order in all courts of the county;

(7) take care of the county jail and the prisoners there;

(8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and

(9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

(c) The sheriff may supervise and inspect all pawnbrokers, vendors, junkshop keepers, cartmen, expressmen, dealers in secondhand merchandise, intelligence offices, and auctions. The sheriff may authorize any deputy in writing to exercise the same powers."

Page 5, line 12, after "precinct", delete "," and insert "**or district**".

Page 5, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "sentencing policy study committee" refers to the committee established by P.L.216-2007, SECTION 56.

(b) The legislative council shall assign to the sentencing policy study committee for study the topic of the theft of salvaged material, including valuable metals and architectural salvage material. The legislative council shall instruct the sentencing policy study committee to specifically examine the effectiveness of enforcement mechanisms in combating the theft of valuable metals,

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architectural salvage materials, and other salvaged materials. The sentencing policy study committee may examine any other issue related the theft of salvaged material.

(c) This SECTION expires November 1, 2008."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1062 as printed January 18, 2008.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

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